

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

State of Illinois, Illinois Department of Transportation

Petitioner,

v.

Elgin, Joliet and Eastern Railway Company

Respondent.

T06-0040

Petition for an Order granting authority to reconstruct, rehabilitate and widen elements of the superstructure and substructure of the highway overpass structures carrying Interstate Route 55 (FAI Route 55) over the tracks of Elgin, Joliet and Eastern Railway Company located at Railroad Mile Post 6.98; DOT/AAR 260 586A in Will County, Illinois and for a waiver of the clearance requirements of 92 Ill. Adm. Code Section 1500.

ORDER

By the Commission:

On May 17, 2006, the State of Illinois, Illinois Department of Transportation ("Department") filed the above captioned Petition with the Illinois Commerce Commission ("Commission") naming as Respondent the Elgin, Joliet and Eastern Railway Company ("EJ&E" or "Railroad"). In the Petition, the Department proposes to reconstruct certain portions of Interstate Route 55 northwest of Joliet, Illinois and southeast of the Village of Plainfield, Illinois. The reconstruction project will include that stretch of Interstate Route 55 between U.S. Route 30 to Webber Road which crosses the mainline track of EJ&E by means of dual highway overpass structures.

On July 5, 2006 the Department filed an Amended Petition incorporating some minor technical changes, a revised Petitioner's Exhibit 3 and an additional Exhibit, Petitioner's Exhibit 4, which is a copy of the Project Agreement negotiated between the Department and EJ&E which was signed by the Railroad on June 21, 2006 resolving the contested issues in this case. In the Amended Petition, the Department requested the Commission enter an Order authorizing it to reconstruct, rehabilitate and widen elements of the highway overpass structures (northbound and southbound) carrying Interstate Route 55 over the Railroad's tracks, and for a waiver of clearance requirements of 92 Ill. Admin. Code Section 1500.

The Department maintains that the superstructure and substructure of the highway overpass structures carrying Interstate Route 55 ("I-55") over the Railroad's tracks are required to be reconstructed, rehabilitated and widened to address their age and deteriorated conditions and to improve the safety of the traveling public. The Department will coordinate the improvement with EJ&E, and a Project Agreement with the Railroad has been executed in regards to the subject matter of the Amended Petition. It is anticipated that the improvements will be completed within 18 months of the beginning of construction. The costs associated with the superstructure and substructure reconstruction, rehabilitation and widening is to be the responsibility of the Department, which has secured Federal Funds for a portion of the costs. The Department attached a copy of the Project Agreement executed by it and the Railroad, and requested that the Petition/Amended Petition be granted without the necessity of holding a hearing in the matter.

EJ&E filed a verified Answer to the Amended Petition, admitting all of the substantive allegations in the Amended Petition, and stating affirmatively that it agreed to the relief requested and waived its right to a hearing. In short, the Railroad requested that the Amended Petition be granted without hearing. Brian Vercruysse, P.E., Senior Rail Safety Specialist, filed a Response to the Amended Petition on behalf of Staff, stating that Staff had no objection to granting the relief requested, without hearing, including the request for waiver of the vertical clearance requirements contained in 92 Ill. Admin. Code Section 1500.

I-55 Highway Overpass Structures; (DOT/AAR 260 586A), RR Milepost 6.98)

I-55 is part of the Eisenhower Interstate System of Highways within the National Highway System and is on the State System of Highways. The existing structures were built in 1955 pursuant to the authority of ICC Docket 42683. Both the superstructure and the substructure were widened in 1977 and additional rehabilitation work was performed in 1994.

The Northbound structure is identified by the Department as Structure No. 099-0018 ("NB I-55") and the Southbound structure is Structure No. 099-0019 ("SB I-55"). I-55 connects the major metropolitan areas of Chicago, Illinois and St. Louis, Missouri; current average daily traffic ("ADT") is 46,000 in each direction and is projected to remain constant and/or increase over the next 15 years. The superstructure of NB I-55 after the improvements will be a reinforced concrete deck 161'0" long (back to back of abutments) by 52'5" wide, supported on three-span continuous steel beams. The superstructure of SB I-55 after the improvements will be a reinforced concrete deck 161'0" long (back to back of abutments) and deck width varies between 44'2" and 44'9" wide, supported on three-span continuous steel beams. The substructures of both NB I-55 and SB I-55 are reinforced concrete multi-column piers supported on timber piles and/or HP steel piles and abutments are supported on concrete piles and/or HP steel piles.

The Department alleged the following facts in its Amended Petition which were admitted and agreed to by the Railroad and Commission Staff. The Department has developed a Three Step Plan to completely reconstruct Interstate 55 in this area of Will County, with an estimated timetable for completion of all steps of the project of approximately 15 years, dependent upon the availability of funding. The safety improvements are necessary

because this section of Interstate 55 has experienced a higher concentration of accidents/collisions in recent years. For the three-year period between 2001 and 2003, 77 accidents (41 northbound and 36 southbound) occurred through this area. Fixed object and sideswipe accidents were the predominant collision type, accounting for over half of the collisions. While many factors could be contributing to these accidents, congestion is most likely the leading cause. Traffic along the mainline has been increasing steadily and, as a result, the level of service is deteriorating. Additionally, the turbulence associated with vehicles exiting and entering the freeway at U.S. Route 30 helps contribute to these accidents. Step I of the project includes plans to provide an additional through lane in each direction and the extension of the auxiliary lanes to and from U.S. Route 30. These enhancements will provide additional capacity and improve traffic operations and maneuverability and are intended to improve overall safety through this area, which should help reduce the number of collisions.

The Scope of Work for Step I of this project includes: widening of both the SB I-55 and NB I-55 structures; the removal and replacement of approach pavements; removal of the existing NB I-55 deck inside shoulder; removal and replacement of all expansion joints; widening of the existing substructure elements; removal of the existing inside and outside wingwalls and addition of new southbound wingwalls to accommodate widening; widening of the aggregate slope walls at both the north and south abutments; widening of the gravity crib retaining wall at the north abutment; repair of substructure defects with formed concrete repair and/or epoxy crack seal, and the utilization of staged construction to keep the road open to traffic at all times. The structural steel under the existing highway will remain in place; however, in order to maintain the existing minimum vertical clearance of 21.89' and 21.94' for SB I-55 and for NB I-55, respectively, shallower structural beams will be utilized under the proposed inside lane(s) and shoulder area for the NB I-55 structure, and under the proposed outside lane(s)/shoulder area for the SB I-55 structure. The raising of the existing structures to meet the 23' vertical clearance required in 92 Ill. Adm. Code Section 1500 has been reviewed and found impractical, as the increased clearance would require major construction to raise the Interstate roadway profile and the complete reconstruction of the existing pavement. These changes would require additional funding of approximately \$5 million which would increase the cost of Step I of the project from approximately \$1.6 million to \$6.5 million. The urgent need to reduce congestion and improve safety of the traveling public requires the Department to proceed with Step I of this project instead of delaying the project to secure additional funding. The Department has also alleged in the Amended Petition that Step III of the project includes provisions for the reconstruction of the highway overpass structures and the Department's stated intentions to raise the clearances of both SB & NB I-55 structures and comply with the clearance requirements of 92 Ill. Adm. Code Section 1500 at that later time.

Staff of the Commission's Rail Safety Section has reviewed the Department's request for the vertical clearance waivers necessary for the reconstruction of the superstructure and substructure of the I-55 highway overpass structures. Staff believes the requests are fair and reasonable and should be granted, without hearing.

The Department has requested that the Commission issue an Order on an expedited basis, without hearing, so that the proposed work may be advertised as soon as possible. The Department anticipates a letting date as early as the end of September 2006, should the Commission grant the Department's Amended Petition.

The Commission, having given due consideration to the Amended Petition, is of the opinion and finds that:

- (1) Petitioner, Illinois Department of Transportation, is a Department of the State of Illinois which exists by virtue of the laws of the State of Illinois;
- (2) Respondent, Elgin, Joliet and Eastern Railway Company, is a rail carrier engaged in the transportation of either or both property and passengers for hire in the State of Illinois, as defined by the Illinois Commercial Transportation Law, 625 ILCS 5/18/c-1104(30);
- (3) The Commission has jurisdiction over the parties and the subject matter of this proceeding and, as no issues are contested between the parties, an evidentiary hearing before the Commission is not necessary in this matter;
- (4) The recitals of fact and conclusions of law contained in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and conclusions of law;
- (5) The vertical clearance requirement of 23 feet as required in 92 Ill. Admin. Code Section 1500.16 should be waived for the reconstruction of the superstructure and substructure and widening of the Interstate Route 55 highway overpass structures;
- (6) The Department and the Elgin, Joliet and Eastern Railway Company have executed a Project Agreement in regards to the subject matter of the Amended Petition which has resolved all contested issues in this case;
- (7) It is fair and reasonable that the Department be responsible for the entire cost of the replacement of the superstructure and substructure of the Interstate Route 55 highway overpass structures without contribution from Elgin, Joliet and Eastern Railway Company; and
- (8) The project should be completed within 24 months of the date of entry of this Order, and all work should be coordinated with the Elgin, Joliet and Eastern Railway Company to address staging and potential traffic detours.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission, that the Petitioner, Illinois Department of Transportation, is authorized, required and directed to proceed with the reconstruction of the superstructure and substructure and widening of the Interstate Route 55 highway overpass structures that span over the Elgin, Joliet and Eastern Railway Company's tracks in Will County, Illinois in accordance with Findings (4) through (8) above;

IT IS FURTHER ORDERED that the Illinois Department of Transportation shall, at six-month intervals from the date of this order, file with the Director of Processing and Information of the Commission's Transportation Bureau, written reports describing the progress it has made toward completion of the work required of it under this Order. Each progress report shall include the docket number and date of this Order, the project completion date deadline established by this Order; crossing information (inventory number and railroad milepost), type of improvement, and the name, title, mailing address, phone number, facsimile number, and electronic mailing address of employee responsible for management of the project.

IT IS FURTHER ORDERED, that the Illinois Department of Transportation shall file with the Transportation Bureau's Director of Processing and Information within five (5) days after completing the work required of it under this Order, a notice of completion.

IT IS FURTHER ORDERED, that any person requesting an extension of time of up to thirty (30) days to complete this project shall file a request with the Commission's Director of Processing and Information and Rail Safety Program Administrator no later than fourteen (14) days before the ordered deadline. A Commission Administrative Law Judge shall decide such requests.

IT IS FURTHER ORDERED, that Requests for Extensions of Time and Petitions for Supplemental Orders, shall include the reasons the additional time is needed to complete the work and the time within which the project will be completed.

IT IS FURTHER ORDERED, that the Commission or its Administrative Law Judge shall deny Petitions for Supplemental Orders and Requests for Extensions of Time, if the reasons for the request are insufficient or where it appears the person has not made a good-faith effort to complete the project within the ordered time. Failure of the Commission or the Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS FURTHER ORDERED that 625 ILCS 5/18c-1701 and 1704 require each "person", as defined by Section 18c-1104, to comply with every regulation or Order of the Commission. These sections further provide that any person who fails to comply with a Commission regulation or Order shall forfeit to the State not more than \$1,000.00 for each such failure, with each day's continuance of the violation being considered a separate offense. While the Commission expects all Parties to comply with this Order in all matters addressed herein and in a timely manner, the Commission advises that any failure to comply may result in the assessment of such sanctions;

IT IS FURTHER ORDERED, that this is a final Order, in accordance with the Illinois Commercial Transportation Law, Chapter 625 of the Illinois Compiled statutes, Sections 18c-2201 and 18c-2206; and the Administrative Review Law, Chapter 735 of the Illinois Compiled Statutes, Section 5/3/101 et seq.

By order of the Commission this 13th day of September, 2006.

JUDGE
SECTION CHIEF
<i>[Signature]</i> ORDERS SUPERVISOR

Charles E. Bof₂

Chairman